

**REPRESENTING YOURSELF BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION**



*INFORMED CONSUMERS, QUALITY SERVICES,
AND A DEDICATED ORGANIZATION FOR MISSOURIANS IN THE 21ST CENTURY*

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The Missouri Public Service Commission regulates investor-owned electric, steam, natural gas, water and sewer and telephone companies. Its mission is to ensure Missouri consumers have access to safe, reliable and reasonably priced utility service while allowing those utility companies under its jurisdiction an opportunity to earn a reasonable return on their investment. The PSC also regulates manufacturers and retail dealers who sell new and used manufactured homes and modular units.

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YOUR HANDBOOK TO THE PSC

The Missouri Public Service Commission (“PSC” or “Commission”) has prepared this Handbook to help you if you choose to represent yourself in a complaint, or any one of the other variety of different matters that may come before the PSC. It is important to remember that the information in this Handbook is general and intended to cover the most basic situation. It does not cover all of the possible situations that may arise with respect to your appearance before the commission nor does it cover all of the rules and laws that might apply in your situation.

This Handbook is not a substitute for having a lawyer represent you. The decision about whether you want a lawyer to represent you in a matter before the commission is extremely important and must always be made carefully. Also, this Handbook is not a substitute for the many laws, rules, orders, decisions (both court and commission) that also apply. If there is a conflict between this Handbook and any law, rule, order, or decision, of any court or the PSC, they prevail over this Handbook.

This Handbook additionally is also meant to help you understand what roles different people have at the PSC, including the Commissioners, and what limitations may exist with regard to your interaction and communication with them.

WHAT OTHER TOOLS DOES THE PSC HAVE TO HELP ME?

If you have an issue that is not satisfactorily resolved after an initial contact with a utility, you may call the PSC Consumer Hotline for assistance: **800-392-4211**.

You should know that copies of the statutes and rules applicable to the PSC can be easily accessed on the internet, at public libraries and the Supreme Court of Missouri library. If you file a complaint with the PSC, a copy of the Commission’s rules will be sent to you in your formal complaint packet. Missouri’s statutes, also called the Revised Statutes of Missouri and abbreviated “RSMo”, are located on the internet at www.moga.mo.gov/statutuesearch/. The Commission’s Rules are found in the Code of State Regulations at www.sos.mo.gov/adrules/. The PSC website, www.psc.mo.gov, also contains many links to relevant statutes, laws and rules.

The PSC does not discriminate on the basis of disability in the provision of programs, services, or employment. If you are speech, hearing or visually impaired and need assistance, call 800-392-4211 or TDD hotline 1-800-829-7541. Every effort will be made to find another way to get this information to you in a usable form.

PUBLIC SERVICE COMMISSION - THE BASICS

The Missouri Public Service Commission was created by law in 1913 and consists of the five Commissioners as well as more than 175 Commission employees. The Commission acts through its Commissioner’s. The names of the current Commissioners are listed at www.psc.mo.gov.

The Public Service Commission consists of several distinct divisions and knowing these divisions as well as their function can be helpful in your preparation for and representation before the Commission. These divisions include:

(1) Commissioners, their Staff and Advisors.

There are five Commissioners, each appointed by the Governor and confirmed by the state senate. The Commissioners serve for a term of six years. Each commissioner has one personal advisor who works directly for the Commissioner. The advisors work directly for their assigned Commissioner, and as such, do not and can not assist you in representing yourself before the Commission. The staff includes secretaries and paralegals that assist with scheduling and other administrative duties related to commission business.

(2) Adjudication Division.

This division consists of a staff of regulatory law judges. The regulatory law judges are sometimes referred to as RLJ's. They preside over hearings, rule on objections and motions, and also draft documents for the cases they are assigned. They also draft all Commission orders.

The regulatory law judges do not represent you, and cannot provide you with legal advice or counsel.

The Data Center is a part of the Adjudication Division and is where all filings are made and all Commission orders are issued.

(3) General Counsel Division.

The General Counsel Division includes lawyers who represents the staff in investigations, contested cases and other proceedings and appears for the Commission in all courts and before federal regulatory bodies. The General Counsel also provides legal advice to the Commission and each individual Commissioner, as well as to the Commission's staff.

The lawyers from General Counsel's office do not represent individual citizens and you should note, these lawyers are not representing you, even if your point of view and their point of view may be the same, or similar.

The Consumer Services Department is a part of the General Counsel Division, and is staffed by non-lawyers. The Consumer Services Department investigates and responds to informal complaints to ensure compliance with Commission rules and utility tariffs. Consumer Services also make general recommendations to the Commission in the form of staff reports, expert testimony, formal recommendations, and presentations. Lawyers from the General Counsel's Division often use these professionals as expert witnesses when representing the staff in proceedings before the Commission.

(4) Administrative Division.

The Administrative Division is responsible for managing the Commission's human and fiscal resources. It is unlikely that you will need the assistance of anyone in this division in representing yourself, but it is helpful in understanding the overall structure of the Commission.

(5) Utility Services Division.

The Utility Services division is made up of engineers, accountants and other professionals who manage oversight and auditing of the utilities' that are regulated by the Commission. Sometimes in cases where individuals have a complaint, and would like to informally resolve the matter, the staff of this division may work with you. It is important to remember that these PSC employees do not represent you whether it is during a hearing, or the informal resolution process.

(6) Utility Operations Division.

The Utility Operations division is made up of technical staff that provides expertise in safety, utility rates, tariffs, rules and regulations, economic analysis, engineering oversight and investigations, and construction inspections. Additionally, this division makes recommendations to the Commission in the form of expert testimony, formal recommendations, and presentations. These professionals are often expert witnesses in cases before the Commission. It is important to remember that these PSC employees do not represent you whether it is during a hearing, or in the informal resolution process.

CAN THE OFFICE OF THE PUBLIC COUNSEL REPRESENT ME PERSONALLY IN A PROCEEDING BEFORE THE PSC?

The State of Missouri does have an attorney that represents the public's interest in every matter before the PSC. That attorney is the Public Counsel, and is employed by the Office of the Public Counsel. If the interests of the public are divided, and the Public Counsel cannot fairly represent each interest, an additional attorney will be appointed to represent this other, different, public interest.

No, the lawyers from the Office of Public Counsel do not provide legal representation for individuals, and you should note, these lawyers are not representing you individually, even if your point of view and their point of view may be the same, or similar.

The Office of the Public Counsel does not provide individual legal representation. The Office of the Public Counsel is not your individual personal lawyer in any matter before the Commission. Unlike criminal courts, where a judge may appoint an attorney to represent you, there is no federal or state funded personal and individualized free lawyer system for proceedings before the PSC.

WHAT SHOULD I EXPECT WHEN I APPEAR BEFORE THE PSC?

Appearing before the Commission is similar to being in a court before a judge. As such, you should take the matter seriously, and prepare appropriately. Some or all of the Commissioners, as well as a regulatory law judge will generally be present. The regulatory law judge presides over Commission hearings, rules on objections and motions, and also drafts documents, as directed by the Commission, including all Commission orders.

WHAT IS THE COMPLAINT PROCESS?

This Handbook is designed to address what occurs *after* your complaint has been initiated and does not outline the requirements that must be met in order to make a complaint. Additional information regarding complaint filing is available on the PSC website, or by calling Consumer Services at 800-392-4211.

First, you should know that the PSC rules specifically recognize two types of complaints; *informal* and *formal*. One difference between the two types of complaints is the level of formality involved.

Informal Complaints.

An informal complaint is intended to provide you with an opportunity to informally address the issues you allege occurred and attempt to seek resolution with your utility. You may be contacted by a member of the PSC staff to discuss your complaint. They will serve as an intermediary with the utility to attempt to resolve your complaint.

Formal Complaints.

The formal complaint process is much more complex, and if not resolved by mediation, or dismissal, is presented to the Commission for consideration. A formal complaint generally includes a hearing, much like a trial in a court. As such, you are responsible for your case at the hearing if you decide to represent yourself.

What Happens Once a Formal or Informal Complaint is Filed?

When you follow the rules for making a complaint, found at 4 CSR 240-2.070, and 4 CSR 240-2.080, and deliver your complaint to the PSC, the staff of the PSC will open an official file for your case and give that file a name and number. You should refer to the case by its name and number, such as Jane Doe v. My Missouri Electric Company, Case No. EC-2008-9999. The file is open to the public and can be seen during business hours, Monday through Friday, 8 A.M. to 4:30 P.M. at the PSC Data Center. You can also access files at any time electronically through the EFIS system discussed in this Handbook.

Is There a Way to Settle a Formal Complaint Without a Hearing?

Formal complaints often settle without going to hearing. If you are a party in a formal complaint, you may contact Consumer Services, the utility and the other parties to see if you can work something out. The parties may discuss settlement, and settle a case, at any time.

Can Mediation Be Used to Settle a Complaint?

Yes. Mediation is a voluntary process. No one, not even the mediator, can force a party (that includes you if you are a party to a case) to accept a settlement of a complaint. However, a mediator can help you clarify your goals in bringing your complaint, and can help you find a compromise resolution to your complaint. You should not view mediation as a place where you have to convince the mediator of your complaint. It is not the mediator's job to decide what really happened. The mediator will not make any decision as to your complaint. Instead, the mediator will help you and the utility talk to each other and to see "both sides of the story." Mediation usually begins with all parties – you, the mediator and the utility.

What Happens at a Formal Complaint Hearing?

The hearing process is an opportunity for the parties in a case to prove the allegations they have made, and make a request for relief from the Commission. As such, it is very important that you prepare for the hearing in advance. Before the actual hearing takes place, there will be many things that occur such as discovery and a prehearing conference. If you file a formal complaint, you are the only one responsible for taking the steps necessary to prove the complaint. It is important to remember that filing a formal complaint is *not* like making a grievance known, for example, at the Better Business Bureau, instead it is like starting a lawsuit.

What is a Prehearing Conference?

A prehearing conference is an opportunity for you, the utility and the PSC staff to meet and discuss the facts in the case and to determine if a settlement agreement can be reached. If a settlement agreement cannot be reached, the parties will be asked to develop a procedural schedule. A procedural schedule is a timeline for the case. It is usually put together, according to dates and times suggested by the parties.

What if a Hearing is Scheduled in a Complaint?

A hearing is much like a trial. Testimony is presented by case participants. Usually, the participants in a formal complaint case are the complainant, the service provider (utility), the Commission staff, and the Public Counsel. These participants are referred to as parties.

What is EFIS?

In most every case, filings are made through the Electronic Filing and Information Systems (“EFIS”). If you have filings to make with the Commission, and have access to a computer and the internet, you should use the EFIS system. If you cannot access or use EFIS, you may make your filings with the Data Center in accordance with the law and the Commission’s rules.

WHAT CAN I EXPECT IN A COMPLAINT HEARING

What is a Procedural Schedule?

A procedural schedule is a timetable for specific events in your case. This timetable allows you to prepare for each event and have sufficient notice of when deadlines will occur, including the date and time of your hearing and what order witnesses will appear at the hearing. Generally the parties work together to put together a procedural schedule, which is then submitted to the Commission for approval.

What is Discovery?

The term discovery refers to how parties can obtain important information from other parties before the hearing starts. Discovery includes (1) depositions, (2) interrogatories, (3) requests for admissions (4) requests for production of documents and other things, and (5) “data requests”.

Depositions. Depositions are sworn statements of witnesses taken before the hearing before a court reporter, without a regulatory law judge or the Commissioners being present. If you want to take a deposition of a witness you may subpoena the witness, but you will be responsible for any witness fees, court reporter fees and other expenses of the deposition.

Interrogatories. Interrogatories are written questions that the other side must answer in writing under oath. A request for production of documents and other things is a written request to make available documents or other things that are identified in the request.

Requests for Admissions. A request for admissions is a set of statements a party sends to the other side in writing; the other side must admit or deny these statements.

Requests for Production of Documents and Other Things. A request for production of documents and other things is a set of requests a party sends to the other side in writing; the other side then must provide the documents and other things which are requested.

Data Requests. In addition, a “data request” is commonly used under Commission rules as a part of the discovery process. If you wish to use a data request, you should refer to the Commission’s rules regarding this type of discovery tool to understand the manner in which you may utilize it.

What is Written Testimony?

At the PSC to move along the hearing process as efficiently as possible, parties to a case may provide written testimony in advance of their hearing. The practice of using written testimony is unique and as such you should review the Commission’s rules regarding written testimony contained

at 4 CSR 240-2.130 so that you can better understand this procedure and how to comply.

What is a Brief?

A brief can take on many forms at the Commission. You may be asked to file a brief by the RLJ, and in some cases, you may choose to file a brief on your own initiative. A brief may be filed before or after a hearing, and may support your case, a motion or other request of the Commission. Sometimes you will hear a brief referred to as a *memorandum of law*. The brief or memorandum explains the facts and legal arguments for the party, and argues why the Commission should grant the relief the party is requesting.

What if I Can't Appear in Person at the Complaint Hearing?

If you make a formal complaint, it is your responsibility to move it forward through the process. You must appear in person, and you must take all steps that you can to present your case to the Commission. If you cannot attend in person, the Commission may allow you to participate via telephone. If you cannot attend in person, you must let the judge know this in advance so that all necessary arrangements can be made before the scheduled hearing time.

What Do I Need to Bring With Me to a Complaint Hearing?

You should bring your witnesses and everything that you would like the Commission to consider as evidence in your case. You should bring nine (9) copies of your supporting documents such as, copies of a bill or bills, letters from or to the company, letters or other supporting documents that may show proof of your position, or any notes (such as notes of telephone calls) you might have that will support the position you have in your case. If you cannot bring nine (9) copies, send a copy to the Data Center (**NEVER SEND ORIGINALS**) before the hearing date, so that copies can be made for the Regulatory Law Judge, the Commissioners and other parties in the case. Your case number should be written on all documents. Your *evidence should not be delivered through the EFIS system*, it may be faxed, e-mailed or mailed to the PSC data center as follows:

Data Center
Governor Office Bldg.
200 Madison Street
PO Box 360
Jefferson City, MO 65102-0360

Questions or Clarification: 573-751-7496
(local to Jefferson City, MO)
By Fax:
(573) 522 – 6176
By Email: datacenter-psc@psc.mo.gov

What Can the Commissioners Consider When Deciding My Case?

When deciding your case, the Commissioners will apply the law to the record in your case. The record consists of admissions a party makes, those things offered as evidence at the hearing and not excluded from the record, and those matters which have been given official notice by the Commission or RLJ. Documents you file in EFIS, are not a part of the record, unless you offer them as evidence at your hearing and they are admitted into the record.

What Happens at the Complaint Hearing and What Do I Have to Do?

First and foremost, you must take charge of your case in the hearing. If you are representing yourself, you must remember that you are responsible for presenting the evidence necessary for the Commission to make a decision.

At the hearing, you will be given a chance to make an opening statement, introduce evidence, cross-examine witnesses, and provide closing argument. The hearing generally follows a routine format, but you should always follow the Commissions Orders and the regulatory law judge's instructions.

When you are given an opportunity to call witnesses you should be prepared with questions to ask your witnesses. Making notes is usually helpful. Your witnesses may be cross examined by other parties in the case, after which you will have an opportunity to ask your witness for further clarification on any issues raised in questions asked of your witnesses by other parties, or the Commissioners.

You will also have the right to cross examine other parties' witnesses. You have the right to object or accept the testimony and documents being presented in the hearing that could become the record in your case. The judge may determine that evidence should be admitted into the record even if it is objected to by you or another party.

You will be asked if you have a closing statement. In that you should tell the Commission why you believe the case should be ruled in your favor. You should not present new evidence in your closing statement. The basic elements of the hearing include:

Important Hearing Rights.

You have two very important rights in the formal complaint hearing process, (1) to examine witnesses, and (2) the right to request that evidence be kept out of the record of the case. Taking the time to prepare for your hearing will help you be better prepared to exercise your rights.

Opening Statements.

At the beginning of the hearing, you will have an opportunity to make an opening statement. This statement is not evidence, but a brief explanation of what you expect the evidence will prove. You should not testify during your opening statement. After opening statements you will have an opportunity to present your evidence, which can include your own testimony. A good opening statement is brief, to the point, includes information you believe the evidence in the case will show and the solution or relief you are asking for.

Presenting Evidence.

After each party has the chance to provide an opening statement, you will have the chance to question your witnesses. Often there are no witnesses other than you. In that case, you simply tell the judge and Commissioners what you want them to know. This is called testifying. If you are testifying, you will be placed under oath beforehand.

If you do have a witness, you will begin by asking questions of your witness. You should come prepared, and already know what you expect them to say. Your questions should help the witness tell what happened without telling them the answer. You should not interrupt a witness while he is talking, unless the witness fails to answer the question you have asked him.

Requesting Subpoenas.

You must have your witnesses ready to appear at the hearing. If your witnesses do not want to come to the hearing, you have the right to request subpoenas to require witnesses to appear. The regulatory law judge can assist you in obtaining subpoenas. Missouri law sets the fees you must pay the witness to attend. The fee is your responsibility.

Cross Examining a Witness.

The other parties have an opportunity to cross-examine each witness. You will have your own opportunity to testify, so when you are cross examining a witness ask questions and do not testify. The regulatory law judge and Commissioners may ask their own questions, or they may rely upon

the parties to ask the necessary questions. Think about the questions you want to ask, and make notes to yourself on the topics that are relevant to your case. Be prepared and organized.

Documents and Other Things as Evidence.

If you have a document or other thing, such as bills, letters, and photographs, that would help prove your case you should be sure to bring it with you to the hearing. You will need enough copies for each Commissioner, the regulatory law judge and each other party in the case. If you cannot bring enough copies, you can send a copy, **NEVER THE ORIGINAL**, to the Data Center, before the hearing date, so that copies can be made for you. You should write your case number on all your documents. Written statements from friends are generally not permitted, instead, you should bring the friend with you to the hearing, and you may then call them as a witness.

If you want to have the Commission consider your evidence, you must ask the judge to enter it into the record. Before the judge can enter your evidence into the record, you need to be sure that you explain, or you have your witness explain, what the evidence is and why the evidence should be a part of the record in the case. You must be sure that you show your evidence to the other parties before you ask the judge to include it in the record. After you have asked the judge to make your evidence a part of the record, the judge will then ask the other parties if they have any objections to the evidence. After hearing objections, the judge will determine whether the evidence will be accepted into the record. If the regulatory law judge does not accept your evidence, it is not a part of the record, and as such, cannot be considered by the Commissioners when they decide your case.

Closing Arguments.

After all of the evidence is presented, the judge will ask the parties to make closing arguments. This is your opportunity to tell the Commission why the case should be decided in your favor. You should not bring in new evidence at this time. Your closing argument should show how the evidence, that is a part of the record, proves your case.

Commission Orders and Decisions.

The decision in your case will not be made on the day of your hearing. Rather, the Commissioners will meet to discuss your case. After their discussion, the judge will prepare an Order for the Commission to consider. The Commission will meet again, review the proposed Order, and ultimately vote to determine the outcome of your case. When the Order is issued, the Commission will provide you with a copy of the Order.

FREQUENTLY ASKED QUESTIONS?

Must I Hire a Lawyer In Order to Appear Before the PSC?

You are not required to hire an attorney if you are representing only yourself, or representing a business that you own alone and that is not a corporation, or other legal entity. However, you cannot represent other people (unless you are an attorney and have met all of the necessary requirements) and you cannot represent any business that is incorporated (even if you are the only shareholder) without being an attorney.

Even if you are appearing on your own behalf, you may prefer to employ an attorney. Your decision whether to hire an attorney may depend upon the type of proceeding, the amount of time you can personally devote to preparation and your personal experience in proceeding with the matter. **The choice is yours.** If you decide that you would like to have an attorney represent you before the PSC, you may do so, but the cost will likely be yours.

Missouri law may, under very limited circumstances, provide for reimbursement of legal fees and expenses, as provided in Sections 536.021.9, 536.085 and 536.087 of the Revised Statutes of Missouri (2000).

Can Any of the Employees of the PSC Provide Me With Legal Representation in a Proceeding Before the Commission?

No. Whether you appear before the Commission yourself, or hire your own lawyer, no one from the Commission's staff, the Commission, regulatory law judge, or General Counsel, are your legal representative before the Commission. The Commission has its own lawyers and experts available to assist it in accomplishing its duties, but always keep in mind that these individuals do not represent you individually before the Commission.

Where and at What Time Are PSC Hearings Held?

Hearings may be at the main office of the Public Service Commission, 200 Madison Street, Jefferson City, Missouri, or it may be at the Commission's other locations in Kansas City or St. Louis. In some cases, such as a *local public hearing*, the hearing will be held in another location. If you do not know where a hearing is scheduled to be held, you should consult the Commission Order or Commission Notice that set the hearing. In addition, the regulatory law judge assigned to a matter may answer your procedural questions, such as the location and time of a hearing.

How Can I Find Out What is Happening at the PSC?

All Commission notices and orders are available to the public through the EFIS system. If you are a party to a case, the Commission will notify you individually of all notices and orders. Notices and orders contain important information such as deadlines.

If you are a participating individually in a matter before the PSC, it is **very important** that you provide the Commission with your current address, telephone number and e-mail address (if you have one) and to tell the Commission if you have any changes. In addition, there is general information on the PSC's website concerning matters that are regulated by the Commission.

WHAT IF I STILL HAVE QUESTIONS?

This Handbook is meant to be a basic review and provide generalized information about the PSC, the Commissioners, as well as the hearing process – and specifically about the complaint hearing. If after reading this material, you still have questions you may contact Consumer Services at 573-392-4211. The PSC Consumer Services personnel may be able to assist you or will direct your call to someone that may be able to help.

SAMPLE COMPLAINT HEARING CHECKLIST

Every Case is Different and Your Case May or May Not Include Each of These Items

- _____ **Procedural Schedule.** A procedural schedule will be set by the Regulatory Law Judge.
- _____ **Discovery.** Parties will have a chance to conduct discovery.
- _____ **Filing of Written Testimony.** In some cases, all testimony is taken “live” during the hearing. The notices and orders will explain whether prefiled written testimony is necessary.
- _____ **Investigative Report.** The Commission may order its staff to provide an investigative report..
- _____ **Hearing.** A hearing is held where witnesses must be available to testify and be cross-examined. In all cases, your witnesses must be present, unless otherwise agreed by the parties, the regulatory law judge and the Commissioners. In most complaint cases, the person bringing the complainant is asked to present their case first, including any supporting documentation, followed by the utility, Staff and OPC. ***A final decision will not be made the day of the hearing regarding the outcome of your case, it will made by the Commission at a later time and delivered to you. The Commission’s decision is called a Report and Order (see below).***
- _____ **Briefs.** The Regulatory Law Judge may ask the parties to file written briefs before the hearing, and sometimes after the hearing to tell about the evidence presented at the hearing and why the ruling should be in your favor.
- _____ **Commissioner Case Discussion.** The Commissioners discuss the case at a public meeting, referred to as “Agenda” and consider whether the complainant has met the burden of proof. *You are not required to attend the public meeting, but are welcome to attend.* This meeting is **not** broadcast via the internet. It is important that if you attend Agenda that you are courteous to the Commissioners and conduct yourself in a professional manner.
- _____ **Report and Order.** A Report and Order detailing the findings of fact and conclusions of law in the case will be issued by the Commissioners, after they have voted on the final decision in the case during an Agenda meeting. *You are not required to the attend Agenda meeting, but are welcome to attend.*
- _____ **Rehearing.** **You must meet all deadlines, including time deadlines to preserve your legal rights.** Various laws, rules and procedures govern the rehearing process. Any party dissatisfied with a Commission decision may seek rehearing by asking the Commission to reconsider the decision.
- _____ **Appeal.** Parties may have a right to appeal a final decision of the Commission to the appropriate court. **You must meet all deadlines, including time deadlines to preserve your legal rights.**
- _____ **Other.** There are many other items that may be included in a formal complaint hearing. You need to pay careful attention to all orders and notices issued by the Commission. These orders and notices provide a roadmap of things that must be done, and deadlines.